

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

James Michael Flemming,	)	
	)	
Plaintiff,	)	C.A. No. 4:19-3373-JD-TER
	)	
vs.	)	<b>OPINION &amp; ORDER</b>
	)	
Officer Kelly J. Reynolds, Sgt. Linen,	)	
Cpt. Holsinger,	)	
	)	
Defendants.	)	
_____	)	

This matter is before the court with the Report and Recommendation of United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 of the District of South Carolina.<sup>1</sup> James Michael Flemming (“Flemming”), a state prisoner proceeding *pro se*, seeks damages based on alleged civil rights violations pursuant to 42 U.S.C. § 1983. Flemming filed two Motions for Default Judgment, stating “Defendants [failed] to defend or respond Plaintiff Complaint.” (DE 42, 54.) In his Report and Recommendation, Magistrate Judge Rogers recommends denying the Defendant’s motions for default judgment.

Flemming filed objections to the Report and Recommendation. To be actionable, objections to the Report and Recommendation must be specific. Failure to file specific objections

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<sup>1</sup> The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that Flemming's objections are non-specific, unrelated to the dispositive portions of the magistrate judge's Report and Recommendation, or merely restate his claims. Accordingly, after review, the court finds that Flemming's objections are without merit. Therefore, after a thorough review of the magistrate judge's Report and the record in this case, the court adopts Magistrate Judge Rogers's Report and Recommendation and incorporates it herein by reference.

It is therefore **ORDERED** that the Defendant's motions for default judgment, Docket Entries 42 and 54, are denied. Additionally, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, Defendant Kelly J. Reynolds is dismissed from this action without prejudice.

**IT IS SO ORDERED.**

s/Joseph Dawson, III  
Joseph Dawson, III  
United States District Judge

Greenville, South Carolina  
February 8, 2021

#### **NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.